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# ENVIRON

June 24, 1997

Federal Express

Ms. Sheri Bianchin  
United States Environmental Protection Agency (USEPA)  
Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Re: Reasonably Anticipated Future Land Use at the ACS Site  
American Chemical Services (ACS) NPL Site

Dear Ms. Bianchin:

Please find enclosed two copies of the evaluation *Reasonably Anticipated Future Land Use at the ACS Site*, which was sent by facsimile earlier today. We look forward to receiving your comments on the Scope of Work for the risk assessment later this week. If you have any questions, please feel free to contact me at (609) 243-9805 or Steve Washburn at (609) 243-9817.

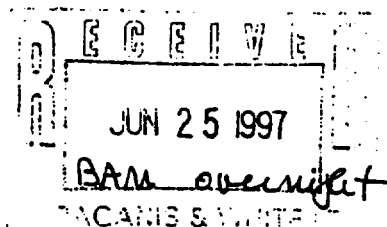
Sincerely,

*Kristen G. Edelmann*

Kristen G. Edelmann  
Senior Associate

Enclosures

cc: Christopher Brown, IDEM  
Steve Mrkvicka, Black & Veatch  
ACS Technical Committee



**Reasonably Anticipated Future Land Use at the ACS Site  
Griffith, Indiana  
June 24, 1997**

**1.0 Introduction**

ENVIRON has been retained to perform a baseline human health risk assessment for the American Chemical Services (ACS) NPL Site ("the Site") in the Town of Griffith, Lake County, Indiana. A chemical manufacturing plant has been operating continuously at the Site for over 40 years, and intends to continue operating at the Site in the future. There are no plans to use the property for any non-industrial purposes.

An evaluation of reasonably anticipated future land use is one of the first steps in a baseline risk assessment. Land use assumptions affect the exposure pathways that are evaluated in the baseline risk assessment. In many cases, residential use is the least restricted land use, with the greatest potential for human exposure. However, according to USEPA (55 FR 8666, March 8, 1990, p. 8710), "the assumption of future residential land use is not a requirement" and "may not be justifiable if the probability that the site will support residential use in the future is small." In such circumstances, assumptions in a baseline assessment should conform with expected future conditions, such as industrial or commercial land use, based on site-specific conditions.

In 1995, the USEPA Office of Solid Waste and Emergency Response (OSWER) issued OSWER Directive No. 9355.7-04, entitled "Land Use in the CERCLA Remedy Selection Process" (USEPA 1995). This guidance presents a framework and specific factors to be used in determining the reasonably anticipated land use for the purpose of estimating potential future risks. Based on USEPA (1995), a comprehensive review of information pertinent to future land use patterns on and around the Site has been conducted to confirm the assumption of

continued industrial land use at the Site.

## **2.0 Evaluation of Reasonably Anticipated Future Land Use**

Historical and current land use at the Site are described in Section 2.1 of this report. This information is combined with consideration of local land use development patterns, visual inspection of the Site, and a review of the sources and types of information identified in USEPA guidance (USEPA 1995) to establish reasonably anticipated future land use at the Site.

Sources of site-specific information consulted include the following:

- Master Plan for Future Land Use, Griffith, Indiana
- Official Zoning Map for Town of Griffith (see Attachment 1)
- Personal communications with the Building Commissioner of Griffith
- Information from the Northwestern Indiana Regional Planning Commission (NIRPC)<sup>1</sup>
- U.S. Census data
- U.S. topographic, wetland inventory, and flood plain maps
- Declarations of Land Use Restriction of Real Property (See Attachment 2)
- Information from the Historic Landmarks Foundation of Indiana

The Master Plan for Griffith (Vilizan-Leman 1975) is used by the Town government to determine zoning and development in Griffith.

The specific factors identified in USEPA (1995) for evaluating reasonably anticipated future land use are discussed in the following sections:

- 2.1. Historical and Current Land Use
  - Current land use
  - Zoning maps
  - Historical and recent development patterns
  - Site location in relation to urban, residential, commercial, industrial, agricultural, and recreational areas
- 2.2 Zoning and Future Land Use Plans
  - Zoning laws

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<sup>1</sup>NIRPC is a multi-purpose areawide planning agency representing local governments within Lake, Porter, and LaPorte Counties; at least two-thirds of the Commission must be local officials.

- Comprehensive community master plans
- 2.3 Likelihood of Future Residential Use
  - Population growth patterns and projections
  - Accessibility of site to existing infrastructure
  - Institutional controls currently in place
- 2.4 Other Information Potentially Related to Land Use
  - Federal/State land use designation
  - Cultural factors
  - Natural resources information
  - Location of Wellhead Protection areas/Potential vulnerability of groundwater
  - Environmental justice issues
  - Location of on-site or nearby wetlands
  - Proximity of site to a floodplain
  - Proximity of site to critical habitats of endangered or threatened species
  - Geologic and hydrogeologic information

## 2.1 Historical and Current Land Use

The Site, which covers approximately 21 acres, is located at 420 South Colfax Avenue, in an area of the Town of Griffith that historically has been developed primarily for industrial and commercial uses. The part of Griffith in which the Site is located is referred to as the “eastern portion of the Town” in the Master Plan for the Town of Griffith, Indiana (i.e., including all lands east of Broad Street between the Penn Central and C & E Railroads). The entire “eastern portion of the Town”, including the Site, is zoned for industrial use. Maps showing the location, features, and zoning of the Site are provided in Attachment 1 (Figures 1, 2, and 3, respectively).

ACS owns or leases approximately 19 acres of the Site and began operations at the Site as a solvent recovery facility in May 1955.<sup>2</sup> Through the nearly 42 years of continuous operation, ACS has modernized, modified, and expanded operations at the Site. For example, in the 1960's ACS added facilities to manufacture small batches of specialty chemicals and in the 1970's built an epoxidation plant to produce a plasticizer. It currently employs over 40 full-time workers. As a result, ACS has established a strong and consistent presence in the

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<sup>2</sup>Four of the acres are leased from CSX.

Town of Griffith. ACS intends to continue specialty chemical manufacturing and epoxidation operations at the Site "in full force" (see Attachment 2).

In addition to the ACS property, the Site includes 2 acres that also have a history of industrial use. These 2 acres are located south of the ACS facility and adjacent to the Griffith Municipal Landfill (labeled "Kapica-Pazmey" on Figure 2). Kapica Drum, Inc. began drum reconditioning operations on this portion of the Site in 1951. Pazmey Corporation bought the property in February 1980 and sold it in March 1987 to Darija Djurovic who used the property for automobile storage and repair.

Land surrounding the Site is currently zoned for industrial use, but historically has been used for a combination of industrial, residential, and recreational purposes. In the following paragraphs, current land uses in the vicinity of the Site are described in a clockwise fashion, beginning at the northeast corner<sup>3</sup>.

Located northeast of the Site, beyond the intersection of Colfax Avenue and the Grand Trunk Railroad right-of-way, are the Oak Ridge Prairie County Park and the Griffith Airport. Immediately east of the Site and north of the Chesapeake and Ohio Railroad right-of-way, the land is undeveloped and zoned general industrial. To the east of Colfax Avenue and south of the Chesapeake and Ohio Railroad right-of-way are several small businesses. To the east of Colfax Avenue and along Reder Road, several small businesses and several single family residences are present. South of the intersection of Reder Road and Colfax Avenue, on Arbogast Avenue, are a private residence and a small industrial building. The area was zoned for industrial use after the residences were built, with the intention that any future development in the area be industrial.<sup>4</sup>

To the west and southwest of the Site, south of the Chesapeake and Ohio Railroad right-of-way, are the Griffith Municipal Landfill and Town of Griffith Municipal Garage.

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<sup>3</sup>Note that the land surrounding the Site is shown in Figure 1, and the roads and railroads immediately surrounding the Site are labeled in Figure 2. Zoning areas are provided in Figure 3 (where I-1 and I-2 indicate areas targeted for industrial use, while R-1 and R-2 indicate areas zoned for residential use).

<sup>4</sup>The residences in the industrial zone are "non-conforming uses" and a zoning ordinance cannot force changes in these existing uses. However, the ordinance can prevent expansion of a non-conforming use, and if the non-conforming use is discontinued, the ordinance can also prevent it from being resumed (Sargent 1997).

Beyond the municipal landfill and west of the C & E Railroad right-of-way, are vacant land and a residential development.

North of the Chesapeake and Ohio Railroad right-of-way to the west of the Site, and north of the Grand Trunk Railroad right-of-way along the northern boundary of the Site, the land is primarily vacant, and classified as wetlands. Further to the north, along Main Street, are small businesses and an industrial park.

## **2.2 Zoning and Future Land Use Plans**

The Town of Griffith adopted the Master Plan as a guide for long-range, future land use planning. According to the Building Commissioner of Griffith (personal communication, June 18, 1997), the land use goals established in the Master Plan are followed to establish zoning and applied when new developments are proposed. At the time the Master Plan was prepared, 8%, or about 390 acres, of the total land area in Griffith was under industrial use, and approximately 46%, or 2,160 acres, was zoned for industrial use. Overall, the Master Plan reduced the total area zoned for industry from 2,160 acres to approximately 1,500 acres. Specifically, the classification of areas in the northern and western portions of Griffith were changed to "research office" or residential. However, it is significant that the Master Plan called for no reductions in industrial zoned land in the eastern portion of the Town where the Site is located, and classified the area as light and heavy industrial "to reflect current development patterns and reflective of potential industrial need for certain industry types. For instance, light industrial represents a more logical development pattern for areas near airports..." (Master Plan, p. 54).

Thus, current zoning in the immediate vicinity of the Site is industrial (see Figure 3, Zoning District Map: Town of Griffith, Indiana, 1992). The Site itself is zoned general industrial; the areas adjacent to the Site are zoned either general industrial or light industrial. The closest area zoned for residential development is located west and southwest of the Site, beyond the Griffith Municipal Landfill and the C & E Railroad right-of-way. According to Town of Griffith officials, no zoning changes are planned for the Site area.

For the eastern portion of town, where the Site is located, the Master Plan aims to

maintain existing industries and businesses while expanding commercial/industrial development to promote new business growth, especially around the Griffith Airport. Consistent with the goals for the eastern portion of town, the Master Plan for Griffith envisions no expansion of residential land use in the area of the Site. Potential residential growth in Griffith is planned for "the western portion of town", to the west of the C & E Railroad right-of-way and the Griffith Municipal Landfill. The Master Plan estimated that this area, in combination with other areas zoned for residential use, would meet the needs of a capacity population of approximately 29,000 individuals in Griffith (see section below regarding historical and predicted population trends for Griffith).

### **2.3 Likelihood of Future Residential Use**

- **Importance of the Facility to the Local Economy**

The facility on the Site is not only an important part of ACS's operations but also represents a part of the Town of Griffith's job base. ACS is listed as one of eight major industries in Griffith (NIPSC 1992). ACS plans to continue operations at the facility and remain an important part of the business community in the Town of Griffith and the surrounding area. However, in the unlikely event that ACS should cease operations at this location, continued industrial use is consistent with the Town of Griffith Plan's goal for industrial growth in the eastern portion of town and with maintaining a similar job base for skilled workers at this location.

- **Suitability for Residential Development**

There are several structures or features on or near the Site that are incompatible with potential residential development, in the unlikely event that the ACS facility were to cease operations. First, the Site is located adjacent to the Griffith Municipal Landfill which would render the location unattractive for potential new residential development. Second, the Site borders two major

active east/west railroad lines, which would also tend to hinder potential residential development because of potential concerns with noise and safety. (Conversely, the Site's proximity to the railroad lines makes its location ideal for commerce and continued industrial use.) Third, the Site is in the flight path of the Griffith Airport, located approximately 2,000 feet from the northeast corner of the Site, which would likewise be expected to inhibit potential new residential development.

- Historical and Predicted Population Trends

Trends in Town of Griffith's population indicate that the probability of future residential land use at the Site is very small. As mentioned previously, the Master Plan for Griffith zoned areas for residential or industrial development based on an estimated capacity population of 29,092 for the Town. Thus, current zoning patterns should be adequate for populations below 29,000 individuals. Between 1970 and 1990, the population decreased slightly from 18,168 to 17,916 persons in Griffith, and from 546,253 to 475,594 in Lake County (US Census Bureau 1996, NIPSC 1992). Migration patterns for Lake County also indicate that the probability of future residential development at the Site is small. For people five years of age and older who moved between 1985 and 1990, 50,696 people moved into Lake County but 72,389 moved out of Lake County (IUSB 1997).

Projected population growth rates in the area are similarly low. In fact, the population is predicted to remain virtually unchanged, with a projected increase of only 0.6% in Lake County between 1990 and 2010 (i.e., from 475,594 persons in 1990 to 478,500 persons in 2010) (IUSB 1996). Residential growth in Griffith, should it occur, is planned for areas zoned for residential use to the west of the Site, rather than for the area where the Site is located.



- Institutional controls currently in place

Declarations of Land Use Restriction of Real Property are currently in place for the Site, including the ACS property (signed January 14, 1994), the Djurovic property (signed December 4, 1996), and the CSX property that is leased to ACS (signed March 4, 1994). Copies of these deed restrictions are provided in Attachment 2. These restrictions prohibit the use of the property for residential purposes, prohibit use of ground water as drinking water, and prohibit disturbance of components of the remedial action. These deed restrictions "run with the land and remain in full force and effect in perpetuity...irrespective of any sale, conveyance, alienation or other transfer of any interest or estate in that property...".

## **2.4 Other Information Potentially Related to Land Use**

According to USEPA (1995), the following sources and types of information may also be pertinent to the determination of anticipated future land use at the Site:

- Federal/State land use designation

The Site is not located on or near land controlled by the Federal or State government. The closest land with designated Federal/State control is Hoosier Prairie, a National Natural Landmark that is owned and managed by the Indiana Department of Natural Resources as part of the Indiana Dunes National Lakeshore. Hoosier Prairie is located approximately 1.5 miles west of the Site.

- Cultural factors

Based on a review of historic sites in Griffith, no historical sites or structures have been identified on or near the Site (Historic Landmarks Foundation of Indiana, 1996).

- Natural resources information

No specific natural resources, as defined in CERCLA Section 101, are located at the Site. Oak Ridge Prairie County Park, which may be considered a natural resource, is located to the northeast of the Site across Colfax Avenue and occupies over 340 acres of the area zoned for industrial use in Griffith.

According to NIRPC (personal communication with NIRPC Data Services Coordinator, June 17, 1997), the park is unlikely to be developed for industrial use, and it is more likely that other properties already developed for industrial use (e.g., the airport, the ACS property) will be retained for industrial use.

- Location of Wellhead Protection areas/Potential vulnerability of ground water

According to the Wellhead Protection Hydrogeologist with the Indiana Department of Environmental Management (IDEM) (personal communication, June 23, 1997), the Site is not currently located within a Wellhead Protection Zone. IDEM is currently defining Wellhead Protection Zones in the area for public water supply systems (i.e., systems that serve over 25 people or have at least 15 connections). Since the municipal water supply in Griffith draws on water from Lake Michigan rather than ground water, it is unlikely that Wellhead Protection Zones will be established near the Site.

Ground water contamination has been detected in the area of the Site, and a barrier wall and pump and treat system have been installed to address ground water contamination. The facility at the Site relies on municipal water which is drawn from Lake Michigan, as mentioned above.

- Environmental justice issues

The fraction of the 1990 population in Griffith categorized as "white" by the US Bureau of Census represents approximately 95% of the total population. For comparison, the US Bureau of Census categorized 75% of the total population in Lake County as "white". The percentage of individuals below the poverty

level was approximately 4% for the Town of Griffith. For comparison, approximately 14% of individuals in Lake County were below the poverty level. The Census data do not provide information on the geographic distribution of minority or low-income communities within the Town of Griffith.

- Location of on-site or nearby wetlands

Wetland areas are located to the west of the Site, between the Grand Trunk and C&E Railroad right-of-ways. According to U.S. Department of Interior Fish and Wildlife Service Wetlands Inventory Maps (dated November, 1981), the wetlands are classified as Palustrine Emergent Seasonally Flooded and Permanently Flooded. Though zoned for industrial development, the wetlands are unlikely to be developed for either residential or industrial purposes.

- Proximity of site to a floodplain

Based on a review of Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps for the Town of Griffith, the Site is not located in or near a floodplain.

- Proximity of site to critical habitats of endangered or threatened species

No critical habitats of endangered or threatened species have been identified on the Site. To the northeast of the Site, the Oak Ridge Prairie County Park has been identified as a "high quality natural community and natural area" by the Indiana Department of Natural Resources. As indicated above, a wetland area is located to the west of the Site. It is highly unlikely that these areas will be developed for either residential or industrial purposes.

- Geologic and hydrogeologic information

A detailed description of the geology and hydrogeology at and surrounding the Site is provided in Section 4 of the RI report. There are no known geologic features (e.g., seismic features) at or near the Site that would be pertinent to the

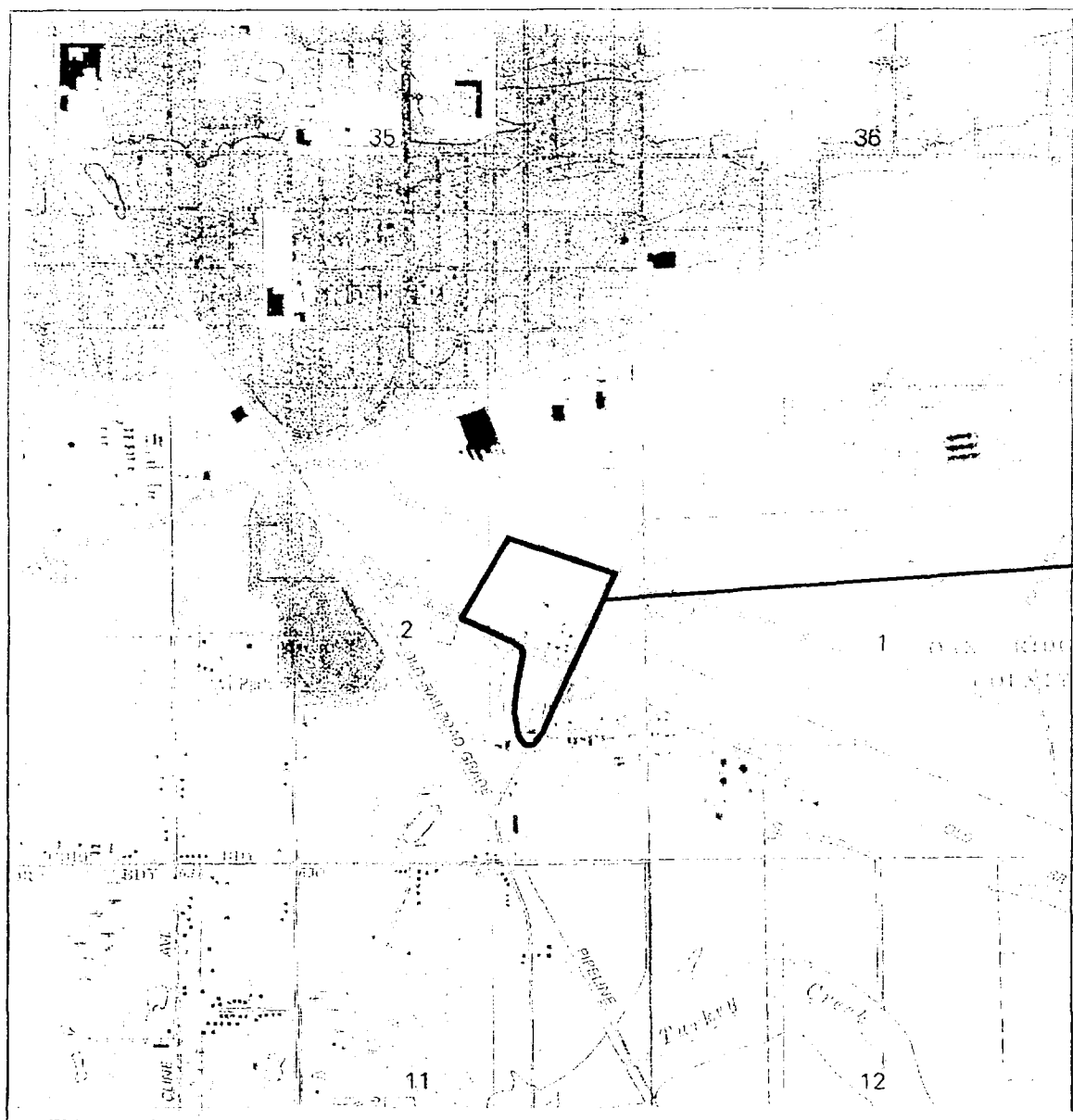
# SDMS US EPA REGION V

## COLOR-RESOLUTION - 2

### IMAGERY INSERT FORM

The following page(s) of this document include color or resolution variations.  
 Unless otherwise noted, these pages are available in monochrome. The original document is available for viewing at the Superfund Records Center.

<b>SITE NAME</b>	AMERICAN CHEMICAL SERVICES
<b>DOC ID #</b>	152259
<b>DESCRIPTION OF ITEM(S)</b>	SITE LOCATION MAP
<b>PRP</b>	RMD - AMERICAN CHEMICAL SERVICES
<b>DOCUMENT VARIATION</b>	<input checked="" type="checkbox"/> <b>X</b> COLOR <b>OR</b> <input type="checkbox"/> RESOLUTION
<b>DATE OF ITEM(S)</b>	6/24/97
<b>NO. OF ITEMS</b>	1
<b>PHASE</b>	REM
<b>OPERABLE UNITS</b>	
<b>PHASE</b> (AR DOCUMENTS ONLY)	<input type="checkbox"/> Remedial <input type="checkbox"/> Removal <input type="checkbox"/> Deletion Docket <input type="checkbox"/> Original <input type="checkbox"/> Update # <input type="checkbox"/> Volume <input type="checkbox"/> of <input type="checkbox"/>
<b>COMMENT(S)</b>	
FIGURE 1	



APPROXIMATE BOUNDARY —————

SOURCE: USGS TOPOGRAPHIC; HIGHLAND QUADRANGLE, INDIANA, 1991

**ENVIRON**

SITE LOCATION MAP  
ACS NPL SITE  
GRIFFITH, INDIANA

Figure

1

Drafted By: HRZ

Date: 6/24/97

5543E/91

determination of anticipated future land use at the Site.

### **3.0 Conclusion**

A comprehensive review of information pertinent to reasonably anticipated future land use patterns confirms that continued industrial land use at the ACS Site represents a reasonable and appropriate assumption for use in the Baseline Risk Assessment. Factors supporting this conclusion include the following:

- A chemical manufacturing plant has been operating continuously at the Site for over 40 years, and intends to continue operating at the Site in the future.
- The Site is zoned industrial, and is slated for continued industrial use in the Master Plan for the Town of Griffith.
- An existing deed restriction for the Site does not allow for future residential development at the Site.
- All property adjacent to the Site is zoned industrial. The Griffith Municipal Landfill, the Town of Griffith Municipal Garage, and two active railroad lines are located immediately adjacent to the Site. In addition, an active airport is located nearby, with a flight path directly over the Site.
- Vacant land zoned for residential use is located in the western portion of the Town of Griffith. The area of this land is more than sufficient to meet projections of residential growth in the town.
- There are no other factors listed in EPA's land use guidance that could suggest anything other than industrial development at the Site.

Thus, the ACS NPL Site fits the description provided in USEPA (1995): "future industrial land use is likely to be a reasonable assumption where a site is currently used for industrial purposes, is located in an area where the surroundings are zoned for industrial purposes, and the comprehensive plan predicts the site will continue to be used for industrial purposes." (p. 6)

#### **4.0 References**

- Federal Emergency Management Agency. 1982. Flood Insurance Rate Map: Town of Griffith, Indiana (Community-Panel Number 185175). October.
- Historic Landmarks Foundation of Indiana. 1996. Indiana Historic Site and Structures Inventory: Lake County Interim Report. May.
- Indiana University School of Business (IUSB). 1997. Indiana County Profiles: Status of Indiana families Profile 1996 - Lake County. [Http://www.iupui.edu/it/ibrc/profiles/sift/page1/co45.pg1.pdf](http://www.iupui.edu/it/ibrc/profiles/sift/page1/co45.pg1.pdf).
- Northern Indiana Public Service Company (NIPSC). 1992. Community Analysis for Griffith, Indiana. May.
- Sargent, C.A. 1997. EC-208: Answers to Your Questions About Planning and Zoning in Indiana. Cooperative Extension Service, Purdue University.
- Torrenga Engineering. 1992. Zoning District Map: Town of Griffith, Indiana. Adopted by the Board of Trustees of the Town of Griffith, Indiana, April 3, 1979; revised February 7, 1992.
- United States Department of the Interior, Fish and Wildlife Service. 1981. National Wetlands Inventory Maps for Highland and St. John Quadrangles. November. (Provided by the Lake County Soil and Water Conservation District, June 6, 1997)
- United States Department of the Interior, Geological Survey. 1991. Topographic Map: Highland Quadrangle, Indiana - Lake Co.
- United States Environmental Protection Agency (USEPA). 1995. Land Use in the CERCLA Remedy Selection Process. OSWER Directive No. 9355.7-04. Office of Solid Waste and Emergency Response. May 25.
- Vilizan-Leman & Assoc. 1975. Master Plan for Future Land Use, Griffith, Indiana. Sponsored by the Griffith Planning Commission. May.

## **ATTACHMENT 1**

### **Maps of the ACS NPL Site and Surrounding Area**



# SDMS US EPA REGION V

## FORMAT- OVERSIZED - 5

### IMAGERY INSERT FORM

The item(s) listed below are not available in SDMS. In order to view original document or document pages, contact the Superfund Records Center.

<b>SITE NAME</b>	<b>AMERICAN CHEMICAL SERVICES</b>		
<b>DOC ID #</b>	<b>152259</b>		
<b>DESCRIPTION OF ITEM(S)</b>	<b>SITE LOCATION MAP</b>		
<b>REASON WHY UNSCANNABLE</b>	<u>  X  </u> <b>OVERSIZED</b>	<b>OR</b>	<u>      </u> <b>FORMAT</b>
<b>DATE OF ITEM(S)</b>	<b>2/7/92</b>		
<b>NO. OF ITEMS</b>	<b>1</b>		
<b>PHASE</b>	<b>REM</b>		
<b>PRP</b>	<b>REM - AMERICAN CHEMICAL SERVICES</b>		
<b>PHASE</b> (AR DOCUMENTS ONLY)	<u>      </u> Remedial <u>      </u> Removal <u>      </u> Deletion Docket <u>      </u> AR <u>      </u> Original <u>      </u> Update # <u>      </u> Volume <u>      </u> of <u>      </u>		
<b>O.U.</b>			
<b>COMMENT(S)</b>			
FIGURE 3			

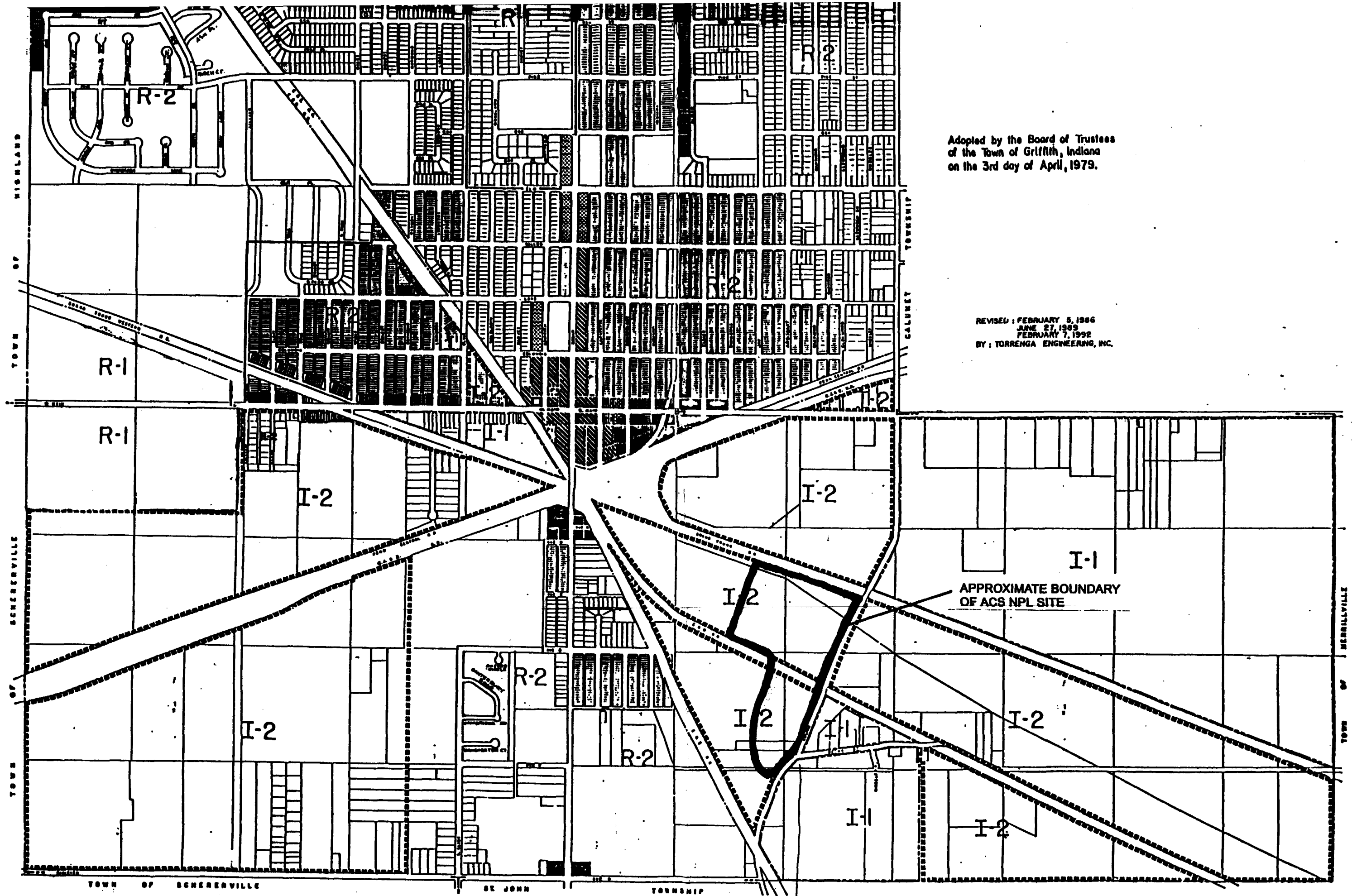


FIGURE 3

**ATTACHMENT 2**

**Deed Restrictions on the Properties of the ACS NPL Site**

94004751

**DECLARATION OF LAND USE  
RESTRICTION OF REAL PROPERTY**

American Chemical Services, Inc., an Indiana corporation, owner in fee simple of the real estate described below, hereby imposes restrictions on the described real estate located at or about 420 South Colfax Road, Griffith, Indiana more particularly described in attached Exhibit A.

WHEREAS, American Chemical Services, Inc. ("ACS") is the owner of certain real property described in Exhibit A which comprise the largest portion of the American Chemical Service Superfund Site ("ACS Site").

WHEREAS, the United States Environmental Protection Agency ("U.S. EPA") has determined that there has been an actual or threatened release of hazardous substances as defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14) (1991) ("CERCLA")) from the ACS Site.

WHEREAS, a Remedial Investigation ("RI") has been conducted at the ACS Site to determine the nature and the extent of any release or threatened release of hazardous substances, pollutants or contaminants and a Feasibility Study ("FS") performed to identify and to evaluate alternatives for the appropriate remedial action necessary to prevent or to mitigate the migration or the release or threatened release of hazardous substances, pollutants or contaminants at or from the ACS Site.

WHEREAS, the U.S. EPA has issued a Record of Decision ("ROD") to address actual and threatened releases of hazardous substances to and from the ACS Site.

JAN 27 1994

WHEREAS, ACS desires to restrict the use of the ACS Site so as to reduce the potential of any harm whatsoever arising from the actual and threatened releases of hazardous substances from the ACS Site, to protect public health and the environment and to prevent interference with remedial action and maintenance work at its property.

NOW, THEREFORE, by this instrument there is created, declared and established for the ACS Site the following land use restriction which shall run with the land and remain in full force and effect in perpetuity from the date hereof, irrespective of any sale, conveyance, alienation or other transfer of any interest or estate in the ACS Site.

#### **I. LAND USE RESTRICTION**

A. ACS covenants and encumbers the property described in Exhibit A shall be occupied exclusively for industrial and/or commercial purposes and that no residential use whatsoever of the ACS Site shall be permitted.

B. ACS intends that the Declaration of the Land Use Restriction be established for its own benefit and ACS intends to continue the operations of ACS in full force.

#### **II. NOTICE AND RECORDATION OF THE LAND USE RESTRICTION**

This Declaration shall be recorded in the Office of the Recorder, Lake County, Indiana in the chain of title of the ACS property, and by so doing shall constitute notice to the public and to all heirs, successors and assigns of the ACS property.

### III. TERMINATION

The Declaration of Land Use Restriction shall be construed as a covenant running with the land and binding upon all parties having any right, title or interest in the ACS Site or any part thereof, and on their heirs, successors and assigns or persons acting under their direction or control. The Declaration of Land Use Restriction shall be terminated only upon the occurrence of one of the following:

- A. The United States Environmental Protection Agency or its successor agency or assigns with jurisdiction over such matters, notifies the owner(s) of the ACS Site in writing that an environmental cleanup has been completed to its satisfaction rendering the ACS Site suitable for all uses whatsoever or until such time as the U.S. EPA determines that the ACS Site poses no unacceptable risk for residential use.
- B. The Indiana Department of Environmental Management, or its successor agency or assigns with jurisdiction over such matters, notifies the owner(s) of the ACS Site in writing that an environmental cleanup has been completed to its satisfaction rendering the ACS Site suitable for all uses whatsoever or until such time as the IDEM determines that the ACS Site poses no unacceptable risk for residential use.
- C. The procedure for clearing the title of this encumbrance, upon the occurrence of the above event shall be that the

owner(s) of the encumbered property may record an affidavit terminating this restrictive covenant and shall attach thereto the written determination or notification described herein as the pre-requisite for termination.

#### IV. SEVERABILITY

If any provision of this Declaration of Land Use Restriction is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions. All such other provisions shall continue unimpaired in full force and effect.

#### V. CERTIFICATION

The undersigned persons executing the Declaration of Land Use Restriction on behalf of ACS represent and certify that they are duly authorized and have been fully empowered to execute and to deliver this Land Use Restriction.

IN WITNESS THEREOF, the said owner(s) of record of the real property subject to this Declaration of Land Use Restriction, ACS, acting through its duly authorized representatives, have caused the Declaration of Land Use Restriction to be executed this 14th day of January, 1997.

AMERICAN CHEMICAL SERVICES, INC.

By: [Signature]  
Title: Pres. of ACS

By: [Signature]  
Title: Sec.

STATE OF INDIANA)

COUNTY OF LAKE )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of January, 1993 by James Murphy and James Tripo as duly authorized representatives of the American Chemical Services, Inc.

Laura R. Di Santo

Notary Public

Laura R. Di Santo

Printed Name

Lake

County of Residence

My Commission Expires 2/9/97

This instrument was prepared by:

Andrew H. Perellis

E. Lynn Grayson

Seyfarth, Shaw, Fairweather & Geraldson

55 East Monroe Street

42nd Floor

Chicago, Illinois 60603

312/346-8000

SMACS043



**EXHIBIT A**

Property owned by American Chemical Service, Inc. for which the proceeding deed restrictions apply:

1. Knott Brothers Addition, Part of Lots 19 thru 24.  
Unit 15, Key number 26 0093 0068
2. Knott Brothers Addition, Southwesterly part of Lots 78 thru 82 and all of Lot 83  
Unit 15, Key number 26 0093 0066
3. 420 S. Colfax, Griffith, IN 46319  
Colfax Chemical Sub.  
(8.74 acres) Lot 1, except North 160 ft. of West 272 ft.  
Unit 15, Key number 26 0341 0001
4. Pt. 100 ft. R/W N.W.¼, S.W.¼  
S. 1 T. 35 R.9  
0.093 acre  
Unit 39, Key number 51 0001 0070
5. Knott Brothers Addition, Southwesterly part of lots 84 & 85  
Unit 15, Key Number 26 0093 0065
6. 420 S. Colfax, Griffith, IN 46319  
Pt. N.¼, S.E. Westerly of Colfax Ave.  
Northeasterly of C & ERR S. 2, T. 35, R.9  
Cont'g 6 Acre M/L  
Unit 15, Key Number 26 0003 0026
7. Approx. 421 Avenue D, Griffith, IN 46319  
Pt. S½, SW¼, NE¼  
S.2, T.35, R.9  
1.6 Acre  
Unit 15, Key Number 26 0001 0089
8. 420 S. Colfax, Griffith, IN 46319  
Colfax Chemical Sub  
N 160 Ft. of W. 272ft.  
S.2, T.35 R.9  
Unit 15, Key Number 26.0341.0002

**DECLARATION OF LAND USE  
RESTRICTION OF REAL PROPERTY**

Person: Kara Bonis White  
414 N. Orleans St  
Suite 810  
Chicago Ill.  
60610  
643  
799381

Zarija and Nadzda Djurovic, owners in fee simple of the real estate described below, hereby imposes restrictions on the described real estate located along Colfax Avenue in Griffith, Indiana described in attached Exhibit A.

WHEREAS, Zarija and Nadzda Djurovic ("Djurovics") are the owners of certain real property described in Exhibit A which comprises a portion of the U.S.EPA defined American Chemical Service, Inc. Superfund Site.

WHEREAS, the U.S. EPA has determined that there have been actual or threatened releases of hazardous substances as defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 (14) (1991) (CERCLA) from the American Chemical Service, Inc. Site.

WHEREAS, a Remedial Investigation (RI) has been conducted at the American Chemical Service Site to determine the nature and the extent of any release or threatened release of hazardous substances, pollutants, contaminants and a Feasibility Study (FS) has been performed to identify and evaluate alternatives for the appropriate remedial action necessary to prevent to mitigate the migration or the release or threatened release of hazardous substances, pollutants or contaminants at or from the American Chemical Service Site.

WHEREAS, The U.S. EPA has issued a Record of Decision ("ROD") to address the actual and threatened releases of hazardous substances to and from the American Chemical Service Site.

**FILED**

FEB 20 1997

SAM ORLICH  
AUDITOR LAKE COUNTY

97010456

97 FEB 20 AM 11:29

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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sm  
CS

WHEREAS, the Djurovics desire to restrict the use of their property within the American Chemical Service Site so as to reduce the potential of any harm whatsoever arising from any actual or threatened releases of hazardous substances from the American Chemical Service Site, to protect public health and the environment and to prevent interference with remedial action and maintenance work at their property.

NOW, THEREFORE, by this instrument there is created, declared and established for the Djurovic property within the American Chemical Service Site described on Exhibit A the following land use restriction, which shall run with the land and remain in full force and effect in perpetuity from the date hereof, irrespective of any sale, conveyance, alienation or other transfer of any interest or estate in that property as described in Exhibit A.

I. LAND USE RESTRICTION

A. The Djurovics hereby covenant and encumber their property described in Exhibit A that no use of the ground water in the shallow aquifer beneath the property as a drinking water source or for other domestic uses shall be made or allowed.

B. The Djurovics hereby further covenant and encumber their property described in Exhibit A that such property shall be occupied exclusively for non-residential purposes.

C. The Djurovics hereby further covenant and encumber their property described in Exhibit A uses of such property shall not interfere with or be detrimental to any remedial components on that property.

06 20 97 14 00 2

## II NOTICE AND RECORDATION OF THE LAND USE RESTRICTION

This Declaration shall be recorded in the Office of the Recorder, Lake County, Indiana in the chain of title of the Djurovic property described in Exhibit A, and by so doing shall constitute notice to the public and to all heirs, successors and assigns of that property.

## III TERMINATION

The Declaration of Land Use Restriction shall be construed as a covenant running with the land and binding upon all parties having any right, title or interest in the Djurovic property described in Exhibit A or any part thereof, and on their heirs, successors and assigns or persons acting under their direction or control. The Declaration of Land Use Restriction shall be terminated only upon the occurrence of the following:

- A. The U.S. EPA or its successor agency or assigns with jurisdiction over such matters, notifies the owner(s) of the Djurovic property described in Exhibit A in writing that an environmental cleanup has been completed to its satisfaction rendering the American Chemical Service Site suitable for all uses whatsoever or until such time as the U.S.EPA determines that the American Chemical Service Site poses no unacceptable risk for residential use.
- B. The Indiana Department of Environmental Management or its successor agency or assigns with jurisdiction over such matters, notifies the owner(s) of the property described in Exhibit A that an environmental cleanup has been

completed to its satisfaction rendering the property suitable for all uses whatsoever or until such time as the Department of Environmental Management determines that the American Chemical Service Site poses no unacceptable risk for residential use.

- c. The procedure for clearing the title of this encumbrance, upon the occurrence of the above event shall be that the owner(s) of the encumbered property may record an affidavit terminating this restrictive covenant and shall attach thereto the written determination or notification described herein as the pre-requisite for termination.

#### **IV. SEVERABILITY**

If any provision of this Declaration of Land Use Restriction is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions. All such other provisions shall continue unimpaired in full force and effect.

#### **V. CERTIFICATION**

The undersigned persons executing the Declaration of Land Use Restriction on behalf of the Djurovics represent and certify that they are duly authorized and have been fully empowered to execute and to deliver this Land Use Restriction.

IN WITNESS THEREOF, the said owner(s) of record of the real property subject to this Declaration of Land Use Restriction, the Djurovics, acting through its duly authorized representatives, have caused the Declaration of Land Use Restriction to be executed this 4 day of Dec, 1996.

The Djurovics

By: [Signature]

Title: [Signature]

By: [Signature]

Title: HD

STATE OF INDIANA )  
COUNTY OF LAKE )

The foregoing instrument was acknowledged before me this 4 day of December, 1996 by \_\_\_\_\_ and \_\_\_\_\_ as duly authorized representatives of the Djurovics.

Joyce A. Furto  
Notary Public  
Joyce A. Furto  
Printed Name  
Lake  
County of Residence

SMACS043

THE GRANTOR Farney Associates, Ltd., an  
Indiana 1914-1969 Partnership

~~THIS DEED IS VOID IN WHOLE OR IN PART~~  
~~INASMUCH AS~~ ~~THE~~ ~~SAID~~ ~~CONSIDERATION~~ ~~IS~~  
~~LESS THAN~~ ~~THE~~ ~~AMOUNT~~ ~~OF~~ ~~ONE~~ ~~HUNDRED~~ ~~AND~~ ~~NO~~ ~~TIEN~~ ~~DOLLARS.~~  
~~AND~~ ~~OTHER~~ ~~AND~~ ~~VALUABLE~~ ~~CONSIDERATIONS~~ ~~HAVE~~ ~~BEEN~~ ~~PAID.~~  
~~CONVEY~~ ~~AND~~ ~~WARRANTS~~ ~~TO~~

**Zarija Djurovic of Griffith, Indiana**

**The Answer Key for Questions 1-10 (Page 10)**

**RECEIVED JULY 19 1964**

the following described land interest situated in the County of Lake with  
Part of the Northwest quarter of the Southeast quarter and Part of the  
Northeast quarter of the Southeast quarter of Section 2, Township 35 North,  
Range 9 West of 2nd Principal Meridian, described as follows: Beginning  
at a point on the East line of said Northwest quarter of the Southeast  
quarter, 205.01 feet North of the Southeast corner of said Northwest quar-  
ter of the Southeast quarter, thence West on a line 205 feet North of and  
parallel to the South line thereof 703.11 feet, thence North parallel to  
the East line of said Northwest quarter of the Southeast quarter, 100.01  
feet; thence East on a line 305 feet North of and parallel to the South  
line thereof 703.11 feet to the East line of said Northwest quarter of the  
Southeast quarter, thence East on a line 305 feet North of and parallel to  
the South line of the Northeast quarter of the Southeast quarter, 216.34

West to the centerline of Colfax Avenue; thence Southerly on said centerline 107.71 feet; thence West on a line 205 feet North of and parallel to the South line of the Northeast quarter of the Southeast quarter 175.29 feet to the place of beginning; all in the Town of Griffith, Lake County, Indiana.

heretby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois

REF ID: A66044

Address(es) of Real Estate 600 Ardmore, Griffith, Indiana

DATED this 9th day of March 19 27

PLEASE PRINT OR TYPE NAME(S): (SEAL) Parkey Associates, Ltd. (SEAL)  
By Parkey Corporation.  
 BELOW (SEAL) General Partner (SEAL)  
 SIGNATURE(S): Corporate Secretary President

State of Illinois, County of Cook to I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that

personally known to me to be the same person - whose name is indicated by the foregoing instrument, appeared before me this day in person, and declared to me that he signed, made and delivered the said instrument of his free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the rights of himself and

Given under my hand and official seal, this 9th day of March, 1957

Continuation expires December 22 1982

This manuscript was prepared by Christopher H. Saterius 102 W. Emerson Arlington Hts, IL 60005

Date, Title	_____
	_____
	_____

THESE INFORMATION TAX DUES TO

RECEIVED & PRICE PAID FOR \_\_\_\_\_

**EXHIBIT A**

DECLARATION OF LAND USE  
RESTRICTION OF REAL PROPERTY

This Declaration is made by CSX Transportation, Inc. ("CSXT"), a Virginia corporation, as owner in fee simple of real estate containing 4.03 acres of land, more or less, described in Exhibit A ("CSXT Property"), forming a part of the real estate commonly known by street address as 420 South Colfax Road, Griffith, Indiana, which comprises a portion of the American Chemical Service Superfund Site ("ACS Site"); and

WHEREAS, the United States Environmental Protection Agency ("U.S. EPA") has determined that there has been an actual or threatened release of hazardous substances as defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601(14) (1991) ("CERCLA")) from the ACS Site; and

WHEREAS, a Remedial Investigation ("RI") has been conducted at the ACS Site for the purpose of determining the nature and the extent of any release or threatened release of hazardous substances, pollutants or contaminants, and a Feasibility Study ("FS") has been performed for the purpose of identifying and evaluating alternatives for remedial action regarding the prevention or mitigation of the migration, if any, or the release or threatened release of hazardous substances, pollutants or contaminants, if any, at or from the ACS Site; and

WHEREAS, the U.S. EPA ~~has issued a~~ Record of Decision ("ROD") to address actual and threatened releases of hazardous substances to and from the ACS Site; and

MAR 11 1994



WHEREAS, CSXT intends to restrict the use of the CSXT Property so as to reduce the potential for harm arising from alleged actual or threatened releases of hazardous substances from the ACS Site, and to protect public health and the environment;

NOW, THEREFORE, by this instrument there is created, declared and established for the CSXT Property the following land use restriction which shall run with the land and remain in full force and effect in perpetuity from the date hereof, unless the restriction is terminated in accordance with the termination provisions hereof, irrespective of any sale, conveyance, alienation or other transfer of any interest or estate in the CSXT Property.

I. LAND USE RESTRICTION

A. CSXT covenants and declares that the use and occupancy of the CSXT Property hereafter shall be restricted to industrial and commercial purposes and that hereafter the CSXT Property, including groundwater thereunder, shall not be used for residential purposes, until and unless this declaration is terminated in accordance with the provisions for termination set forth below.

B. This declaration is not intended and shall not be construed to be an acknowledgement or admission by CSXT (i) of any release or threatened release of any substance to or from said CSXT Property, or (ii) of an imminent and substantial endangerment to the public health or welfare or the environment,

or (iii) of liability or responsibility for any purpose or in any respect whatsoever.

C. This declaration is made for the benefit of CSXT and nothing herein contained is intended to modify or affect CSXT's rights as lessor under the current lease of the CSXT Property under which American Chemical Services, Inc. is lessee, provided that CSXT hereby further declares that said lease is not for residential use purposes, but only for industrial and/or commercial use purposes.

## II. NOTICE AND RECORDATION OF THE LAND USE RESTRICTION

This Declaration of Land Use Restriction shall be recorded in the Office of the Recorder, Lake County, Indiana in the chain of title of the CSXT Property, and by so doing shall constitute notice to the public, anyone hereafter having the right to occupy the CSXT Property and to all successors and assigns of the CSXT Property.

## III. TERMINATION

This Declaration shall be construed as a covenant running with the land and binding on all parties having any right, title or interest in the CSXT Property or any part thereof, and on their employees, agents, successors and assigns or persons acting under their direction or control. This Declaration of Land Use Restriction shall be terminated only upon the occurrence of one of the following:

- A. The U.S. EPA or its successor agency or assigns with jurisdiction over such matters, (i) confirms in writing

that an environmental cleanup on the ACS Site has been completed, in compliance with current regulatory standards, rendering the CSXT Property suitable for residential use, or (ii) determines that the CSXT Property poses no unacceptable risk for residential use; or

- 3 B. The Indiana Department of Environmental Management ("IDEM"), or its successor agency or assigns with jurisdiction over such matters, (i) confirms in writing that an environmental cleanup on the ACS Site has been completed, in compliance with current regulatory standards, rendering the CSXT Property suitable for residential use, or (ii) determines that the CSXT Property poses no unacceptable risk for residential use.

The procedure for clearing the title of this restriction, upon the occurrence of any one of the above events, shall be that the owner(s) of the restricted use property may record an affidavit terminating this restrictive covenant and shall attach thereto the written confirmation or determination described herein as the pre-requisite for termination.

#### IV. SEVERABILITY

If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of other provisions hereof; and all such other provisions shall continue in force and effect.

## V. CERTIFICATION

The undersigned persons executing this Declaration on behalf of CSXT represent and certify that they are duly authorized and are fully empowered to execute and to deliver this Declaration of Land Use Restriction.

IN WITNESS WHEREOF, CSXT, as the owner of record of the real estate subject to this Declaration of Land Use Restriction, acting through its duly authorized representatives, have caused this instrument to be executed this 4th day of March, 1994.

CSX TRANSPORTATION, INC.

By: Gerald L. Nichols  
Name: Gerald L. Nichols  
Title: Sr. Vice President

ATTEST:

SEAL

By: James A. Delaney  
Name: James A. Delaney  
Title: Assistant/Corporate Secretary

STATE OF FLORIDA )

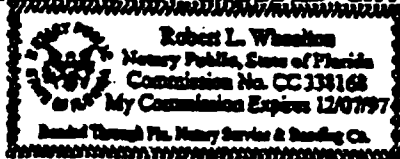
SS.

COUNTY OF DUVAL )

I, Robert L. Wheaton, a Notary Public of the State of Florida and the County of Duval, do certify that, on the date below, before me in said County came Gerald L. Nichols, ( ☒ to me know personally or ( ) satisfactorily proven to me by current evidence ( ) to be the person whose name is subscribed to the above Declaration of Land Use Restriction of Real Property, who, being by me first duly sworn, did make oath, acknowledge and say that: s/he resides in Jacksonville, Duval County, Florida; s/he is S.R. Vice President of CSX Transportation, Inc., the corporation described in and which executed said instrument; s/he is fully informed of the contents of the instrument; s/he knows the seal of said corporation; the seal affixed to said instrument is such seal; it was so affixed by authority of the Board of Directors of said corporation; s/he signed his/her name thereto for said corporation pursuant to such authority; said instrument is the free act and deed of said corporation; and the conveyance herein is not part of a transaction, sale, lease, exchange or other transfer or conveyance of all or substantially all of the property and/or assets of the Grantor.

IN WITNESS WHEREOF, I hereunto set my hand and official seal, this 4th day of March, 1994.

My commission expires on:



Robert L. Wheaton  
Notary Public

(SEAL)

This instrument was prepared by:

Marvin P. Metge  
Gorham, Metge, Bowman & Hourigan  
300 West Washington, Suite 1500  
Chicago, Illinois 60606  
(312) 236-2713

## EXHIBIT A

Description of property at: Griffith, Indiana

All that certain land situate in Section 2, Township 35 North, Range 9 West, Lake County, Indiana, more fully described as follows:

**BEGINNING** at the point of intersection of the west line of Colfax Avenue with the south line of Parcel 'C' as described in exchange deed dated February 19, 1925, between the Chesapeake and Ohio Railway Company and the Grand Trunk Western Railway Company, recorded in Deed Book 354, Page 381; thence in a westerly direction along the south line of Parcel 'C' a distance of 382 ft., more or less, to a corner of Parcel 'C'; thence continuing along the south line of Parcel 'C' in a northwesterly direction a distance of 404 ft., more or less, to the point of intersection of the south line of Parcel 'C' with a line perpendicular to the centerline of the former Chesapeake and Ohio Railway Company's main line track at Valuation Station 7952+17.36; thence South 25° 05' 30" West along said perpendicular line a distance of 333 ft., more or less, to the northwest corner of lands conveyed by the Chesapeake and Ohio Railway Company to American Chemical Service, Inc., dated October 10, 1967; thence with the north line of the American Chemical lands, South 64° 53' 30" East a distance of 761.38 ft. to the west line of Colfax Avenue; thence with the west line of Colfax Avenue, North 25° 05' 30" East a distance of 300 ft., more or less, to the POINT OF BEGINNING.